

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

CO-LINE WELDING, INC.

ADMINISTRATIVE CONSENT ORDER

NO. 2015-AQ-**05**

To: Co-Line Welding, Inc.
Eric Brand, President
1232 – 100th Street
Sully, Iowa 50251

Co-Line Welding, Inc.
Dale Brand, Registered Agent
1041 Cordova Avenue
Lynnville, Iowa 50153

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Co-Line Welding, Inc., (Co-Line) for the purpose of resolving air quality permit violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Jeff Theobald
Iowa Department of Natural Resources
Field Office No. 5
7900 Hickman Road
Windsor Heights, Iowa 50324
Phone: 515-725-0271

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515-725-9551

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

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III. STATEMENT OF FACTS

1. Co-Line has a facility located in rural Mahaska County, south of Sully, Iowa. The address of the facility is 1232 100th Street, Sully, Iowa. This metal fabrication facility began operation in 1979 and supplies products to various industries, including farming equipment and basketball hoop manufacturers. Air Quality Construction Permit Nos. 01-A-029 and 01-A-030 were issued to Co-Line in 2001 for two as-built Spray Paint Booths. The permits have been modified several times, but always have contained recordkeeping requirements. The current permits, Permit Nos. 01-A-029-S3 and 01-A-030-S3, were issued on August 11, 2011. These construction permits contained limits for paint and cleaning materials usage, and Hazardous Air Pollutants (HAPs) and Volatile Organic Compounds (VOCs) limits, as follows:

- The facility is limited to the use of no more than 9,000 gallons of painting and cleaning materials per 12-month period.
- The facility is limited to the use of no more than 26 tons per year of Volatile Organic Compounds (VOCs) per each 12-month rolling total period.
- The facility is limited to the use of no more than 22.5 tons total HAPs per 12-month rolling total period, and no more than 5 tons of any single HAP per 12-month rolling total period.

2. Condition 15 of Co-Line's permits contains specific operating condition and materials usage recordkeeping requirements. Conditions 8 and 15 of Co-Line's permits require that the records kept pursuant to the permits be available for inspection by DNR. Co-Line has failed to maintain records for its Mahaska County facility, as required by its air quality construction permits. Co-Line also has failed to make its records available for inspection by DNR.

3. The material usage restriction conditions of Co-Line's construction permits allow the facility to be classified a synthetic minor for Title V Operating Permit Program purposes, which allows Co-Line to avoid having to apply for and obtain a Title V Operating Permit for this facility.

4. Environmental Specialist Jeff Theobald of DNR Field Office No. 5 conducted an inspection of the facility on June 20, 2014. At the time of the inspection, Co-Line was not able to provide Mr. Theobald with records required by its construction permits. The records either were not available or were not being maintained as required. The requested records were not provided to DNR until July 10, 2014. A July 15, 2014, Notice of Violation letter (NOV) was issued to Co-Line for failure to comply with the requirements of its construction permits.

5. Co-Line has a history of violating the requirements of the air quality construction permit program, particularly the record-keeping requirements. DNR

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has conducted six air quality inspections of the facility since 2001 and has found violations during the five most recent inspections, including repeated air quality construction permit violations.

6. On July 25, 2011, DNR Field Office 5 inspected the facility and found that Co-Line had failed to maintain records regarding the use of individual HAPs in the required format. An August 5, 2011, NOV was issued to Co-Line.

7. On August 6, 2010, DNR Field Office 5 inspected the facility and found that Co-Line had failed to maintain current Material Safety Data Sheets (MSDS), violated its permitted limit for paint gun emissions from Emission Unit 2 (Permit No. 01-A-029-S2), failed to obtain construction permits prior to installation and operation of equipment, and failed to construct emission units pursuant to the conditions of issued permits. A September 3, 2010, NOV was issued to Co-Line.

8. On November 12, 2004, DNR Field Office 5 inspected the facility and found that Co-Line had failed to maintain and make available to DNR the required records, including current MSDS and 12-month rolling totals of paint usage records. Further, the VOC and HAP content on the MSDS reviewed did not all match the values used to maintain the 12-month rolled totals. A December 6, 2004, NOV was issued to Co-Line.

9. On February 11, 2003, DNR Field Office 5 inspected the facility and found that Co-Line had failed to maintain 12-month rolling total records in compliance with its construction permits, and failed to make records available to DNR. A March 4, 2003, NOV was issued to Co-Line. An inspection also occurred on April 19, 2001, and no violations were found at that time. That inspection, however, added to Co-Line's awareness of the air quality requirements.

10. Additionally, seven as-built permits were issued to Co-Line on January 6, 2005, for various welders, following Co-Line's failure to obtain required construction permits prior to operation of equipment; and two as-built permits were issued to Co-Line in 2001 for its two as-built Spray Paint Booths, following Co-Line's failure to obtain required construction permits prior to operation of equipment.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

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2. Iowa Code section 455B.134(3) provides that the director of DNR shall grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, modified, or existing air contaminant sources and for related control equipment.

3. Pursuant to Iowa Code sections 455B.133 and 455B.134, 567 IAC 22.3(3) provides that a construction permit may be issued subject to conditions which shall be specified in writing. Such conditions may include but are not limited to emission limits, operating conditions, recordkeeping requirements, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting. Since 2001, Co-Line has repeatedly failed to comply with the conditions of its construction permits, particularly the recordkeeping requirements.

V. ORDER

THEREFORE, DNR orders and Co-Line agrees to the following:

1. Co-Line shall pay a penalty of \$4,000.00 within 30 days of the date this order is signed by the Director;
2. Co-Line shall comply with all construction permit conditions at all times, including maintaining current and up-to-date MSDS, HAP and VOC records, as described in its permits; and
3. Within 45 days of the date of this order, Co-Line shall submit to DNR Field Office 5 for its approval a written compliance plan outlining actions the facility will implement to address its recordkeeping deficiencies.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$4,000.00 is assessed by this administrative consent order. The penalty must be paid within 30 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

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Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Co-Line saved the cost of staff time to properly maintain records and comply with its construction permits since 2003. Conservatively estimating a savings of \$100.00 per year over a period of eleven years leads to a savings of \$1,100.00. Therefore, the amount of \$1,100.00 is assessed for this factor.

Gravity of the Violation – DNR has conducted six inspections over the past thirteen years (2001-2014) and has found repeated violations since 2003. Further, compliance with its material usage and permitted emission limits, allows Co-Line to remain a synthetic minor facility for Title V Operating Program purposes. Keeping required records and making those records available to DNR, as required by its permits, ensures that the facility can maintain its synthetic minor status. Finally, the failure of Co-Line to comply with its construction permit requirements threatens the integrity of the DNR regulatory program. Therefore, \$900.00 is assessed for the gravity of the violations.

Culpability – Co-Line has failed repeatedly to maintain proper records and to have records readily available for DNR inspection. This lack of required and available recordkeeping has occurred for the past five air quality inspections conducted at the facility. For the above reasons \$2,000.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Co-Line. For that reason, Co-Line waives its right to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative

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penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code sections 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

Chuck Gipp
Chuck Gipp, Director
Iowa Department of Natural Resources

Dated this 11th day of
May, 2015.

E.C. Bond Co-Line Welding, Inc.
Co-Line Welding, Inc.

Dated this 23rd day of
April, 2015.

DNR Field Office 5; Anne Preziosi; VII.C.2